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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,718	12/20/2000	Herve Buzot	PPC-767	7536

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 09/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

Office Action Summary	Application No.		Applicant(s)	
	09/741,718		BUZOT, HERVE	
	Examiner		Art Unit	
	C. Lynne Anderson		3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6 June 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 26-36 is/are rejected.
- 7) ☒ Claim(s) 23-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8,10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "a bulk density within about 20% of said absorbent material's bulk density at its maximum volume capacity" in lines 2-4. Claim 27 recites the limitation "a predetermined density within about 20% of said absorbent material's bulk density at its maximum volume capacity" in lines 2-3. It is unclear how the absorbent material (i.e. the individual fibers) may have a bulk density. The specification defines the bulk density of the plurality of tablets in relation to the density of the absorbent material, not the bulk density of the absorbent material. Further, it is unclear what is included in the scope of the phrase "within about 20%". Is the bulk density of the plurality of tablets between 0% and 20% of the density of the absorbent material? It is also unclear how the "predetermined density" of claim 27 differs from the "bulk density" of claim 1. The claims will be considered based on the definite limitations recited.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-6, 8, 13, 15, 16, 19, 26-30, 34, and 35 are rejected under 35

U.S.C. 102(b) as being anticipated by Reeves et al. (4,278,088).

Reeves discloses an absorbent article, as shown in figure 1, comprising an overwrap 1 and absorbent material 2. The overwrap 1 is fluid-permeable, as disclosed in column 1, lines 55-57. The absorbent material 2 comprises a plurality of compressed, fibrous tablets, as disclosed in column 1, lines 53-55.

With respect to claims 4-6 and 8, the absorbent material 2 comprises cellulosic material, as disclosed in column 2, lines 39-42. Cellulose is bondable by nature, and its chemical structure permits it to form hydrogen bonds.

With respect to claim 13, the overwrap 1 comprises a nonwoven material, as disclosed in column 3, lines 3-5.

With respect to claims 15 and 16, the overwrap 1 is a liquid-permeable bag, as disclosed in column 1, lines 55-57.

With respect to claim 19, the absorbent article is a tampon, as disclosed in claim 1.

With respect to claims 26 and 27, the finished absorbent article disclosed by Reeves is made by the claimed method, as described in column 2, lines 56-57. Carlucci discloses a fibrous, absorbent material 50 which is compressed into tablets and placed into an overwrap 1. The overwrap 1 is then sealed by closure 7.

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With respect to claim 28, the overwrap 1 is placed in a tampon applicator I, as shown in figure 2.

With respect to claim 29, the overwrap 1 is a bag, as disclosed in column 1, lines 55-57.

With respect to claim 30, the overwrap 1 is a nonwoven material, as disclosed in column 3, lines 3-5.

With respect to claim 34, a withdrawal string 5 is attached to the bag formed by overwrap 1, as shown in figure 1.

With respect to claim 35, the absorbent article of claim 34 is placed in a tampon applicator I, as shown in figure 2.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 20-22, 26, 30-33, and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Carlucci et al. (6,191,340).

Carlucci discloses an absorbent article 20, as shown in figure 3, comprising a liquid-permeable bag 47 containing a plurality of tablets of an absorbent material 50.

Tampons may take a variety of forms, including substantially cylindrical. The liquid-

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permeable bag 47 disclosed by Carlucci has the form of a tampon. The absorbent material 50 comprises a compressed cellulose sponge having a density of 1 g/cc, as disclosed in column 3, lines 28-31. Sponge is, by definition, an elastic porous mass of interlacing fibers, so the absorbent material 50 is considered fibrous.

With respect to claims 21-22, the density of the absorbent material 50 is at least 0.8 g/cc, but less than 1.2 g/cc, as disclosed in column 3, lines 28-31.

With respect to claim 26, the finished absorbent article disclosed by Carlucci is be made by the method described. Carlucci discloses a fibrous, absorbent material 50 which is compressed into tablets, as described in column 3, lines 28-31, and placed into an overwrap 47. The overwrap 47 is then sealed.

With respect to claim 30, the overwrap 47 is a nonwoven material, as disclosed in column 9, line 14.

With respect to claims 31-33, the density of the absorbent material 50 is at least 0.5 g/cc but less than 1.2 g/cc, as disclosed in column 3, lines 28-31.

With respect to claim 36, the overwrap 47 is sealed to barrier materials 24 and 26 to form a pad, as shown in figure 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reeves et al. (4,278,088) as applied to claim 1 above, and further in view of Foley et al. (5,817,077).

Reeves discloses all aspects of the claimed invention with the exception of an apertured film overwrap. Foley discloses an absorbent article having an apertured film overwrap, as disclosed in column 4, lines 37-43. The purpose of this is to reduce the amount of moisture absorbed from the epithelial tissue, thus keeping the tissue from drying out, as described in column 2, lines 54-61.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to wrap the absorbent article of Reeves with the apertured film of Foley to prevent the epithelial tissue of the wearer from drying out.

Allowable Subject Matter

Claims 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2, 3, 7, 9-12, and 17-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 6 June 2002 have been fully considered but they are not persuasive.

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Applicant's arguments with respect to claims 1 and 27 have been considered but are moot in view of the new ground(s) of rejection under the second paragraph of 35 U.S.C. 112.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., an absorbent article designed to be worn internally) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, Primary Examiner Dennis Ruhl can be reached on (703) 308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CWA
cla

September 5, 2002


GLENN K. DAWSON
PRIMARY EXAMINER